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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,865	08/27/2001	Reuben Hertz		3746
31877	7590	07/01/2005	EXAMINER	
ALLEN D. HERTZ 12784 TULIPWOOD CIRCLE BOCA RATON, FL 33428				ROSE, ROBERT A
ART UNIT		PAPER NUMBER		
				3723

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/939,865	HERTZ, REUBEN	
Examiner	Art Unit	
Robert Rose	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 February 2005.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,4-12,14-25,27-31,33-38 and 43-46 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) 1,2,4-12,14-19,29-31 and 33-38 is/are allowed.
6) Claim(s) 20-25,27,28,43,44 and 46 is/are rejected.
7) Claim(s) 45 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

1. Claims 3, 13, 26, 32, and 39-42 have been canceled.
2. Claims 43-46 have been added.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
4. Claims 20-21, 27-28, 43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stark et al in view of Schur et al. In-as-much as Applicant is only entitled to the filing date of the CIP application for the new subject matter directed to the self-sealing mechanism recited in claim 20, the Schur et al reference is deemed to constitute prior art against this set of claims. Schur et al disclose a self-sealing one-way valve located within the chamber upstream of the gas receiving port. To provide such a one-way valve in the chamber of Stark et al upstream of the gas receiving port, to prevent backflow of media would have been obvious in view of Schur et al.
5. Claims 22-25, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stark et al in view of Schur et al and further in view of Daubенberger et al. Schur et al teaches to provide a check-valve in a location between the gas receiving port and the mixing chamber to prevent backflow of the abrasive media. Daubенberger et al disclose a check-valve for one-way flow of media through a passageway comprising a

hemispherical-shaped flexible material having a slit which closes to prevent backflow of media through the valve. To provide such a conventional hemispherical-shaped check-valve in the location taught by Schur et al to prevent backflow of media while minimizing the number of moving parts prone to wear, would have been obvious in view of Daubenberger et al.

6. Claims 1-2, 4-12, 14-19, 29-31, and 33-38 are allowed.
7. Claim 45 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Applicant's arguments filed February 28, 2005 have been fully considered but they are not persuasive. With regard to independent claim 20 Schur disclose the location and structure of a check valve claimed in claim 20. The Schur patent predates the filing date of Applicant's CIP subject matter by more than one year, thus applicant's affidavit is not deemed sufficient to overcome the art of record.
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication should be directed to Robert Rose at telephone number (703) 308-1360.

rr

June 24, 2005.

ROBERT A. ROSE
PRIMARY EXAMINER
ART UNIT 323

